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SETTLEMENT REACHED IN O'HARE PASSENGER SEARCH CASE

CHICAGO – The United States today settled a 1997 civil lawsuit brought by women who claimed that when arriving on international flights at O'Hare International Airport, they were subject to unconstitutional searches ranging from patdown to x-ray searches. A settlement agreement filed today in U.S. District Court ends the litigation, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois. The suit was brought against the United States and inspectors, supervisors, port directors, and commissioners of the former United States Customs Service, now the U.S. Department of Homeland Security, Bureau of Customs and Border Protection. Almost all of the searches at issue occurred prior to March 1998.

The 87 remaining plaintiffs agreed to dismiss all pending claims against the United States and any individual defendants for a total single payment of \$1,879,750, or less than \$19,000 for each alleged illegal search. The payment will be distributed to plaintiffs in a manner determined by their attorneys. Each plaintiff initially sought between \$100,000 and \$600,000 in damages. The settlement also provides an additional \$50,000 in costs, with all parties bearing their own attorney's fees.

Personal searches at O'Hare Airport are considered "border searches," which generally do not require a court-issued warrant and are permitted with only a reasonable suspicion based on articulable factors that the traveler may be carrying contraband. The settlement of this case does not involve an admission of liability. In fact, the Bureau of Customs and Border Protection continues to use personal searches to prevent the entry of illegal drugs and other contraband through O'Hare, but it has improved its record keeping and supervisory practices, thereby providing additional passenger protections from unlawful searches as alleged in this case while doing a better job of documenting its reasons for doing the appropriate searches that are done.

During the course of litigation, the defendants successfully defeated the class action allegations and obtained dismissals of all claims aimed at the operations of the Customs Service's managers and headquarters officials. Four plaintiffs were also dismissed previously from the case.

The case was assigned to Senior U.S. District William T. Hart. The settlement was secured with the substantial assistance of the Joel N. Shapiro, Seventh Circuit Senior Conference Attorney, who assisted the parties through lengthy negotiation and mediation sessions.

The United States is being represented by Assistant United States Attorneys James M. Kuhn, Sr., and Jonathan Haile.

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